

Decision 02-06-009 June 6, 2002

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Adelphia Business Solutions Operations, Inc., for  
a Certificate of Public Convenience and Necessity  
to Offer Local Exchange Service.

Application 00-02-021  
(Filed February 11, 2000)

**OPINION DISMISSING APPLICATION  
FOR FAILURE TO PROSECUTE**

**I. Summary**

Adelphia Business Solutions Operations, Inc. (Applicant) filed this application for a certificate of public convenience and necessity under Pub. Util. Code § 1001 for authority to provide local exchange telecommunications services. By this decision, we dismiss the application for failure to prosecute.

**II. Discussion**

Applicant filed its application on February 11, 2000, requesting authority to provide local exchange telecommunications services. The application included proposed construction that required review pursuant to the California Environmental Quality Act (CEQA). Applicant did not pursue the CEQA review. The assigned Administrative Law Judge (ALJ) made several inquiries regarding whether Applicant was going to pursue the CEQA review, but was unable to get a response. On April 8, 2002, the ALJ issued a ruling that required

Applicant to indicate whether it wanted to pursue the application. Applicant was ordered to respond by April 22, 2002. No response was filed. This application cannot be left open indefinitely. Applicant has been given a full opportunity to pursue this matter and has not done so. Therefore, the application shall be dismissed for failure to prosecute. This order will be made effective immediately in order to clear this application from the Commission's list of active proceedings.

### **III. Comments on Draft Decision**

The draft decision of ALJ Jeffrey P. O'Donnell in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.7 of the Commission's Rules of Practice and Procedure. No comments were filed.

### **Findings of Fact**

1. Applicant did not pursue the required CEQA review.
2. Applicant failed to respond to the ALJ's April 8, 2002 ruling.
3. The application cannot be left open indefinitely.
4. Applicant has failed to prosecute the application.

### **Conclusions of Law**

1. The application should be dismissed.
2. This order should be made effective immediately in order to clear this application from the Commission's list of active proceedings.

**O R D E R**

**IT IS ORDERED** that:

1. Application 00-02-021 is dismissed.
2. This proceeding is closed.

This order is effective today.

Dated June 6, 2002, at San Francisco, California.

LORETTA M. LYNCH  
President

HENRY M. DUQUE  
CARL W. WOOD  
GEOFFREY F. BROWN  
MICHAEL R. PEEVEY  
Commissioners